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In Prison 7 Years *Panel's Evidence May Clear Convict*

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For seven years, Ernest Turley doggedly maintained from his Missouri prison cell that he had not robbed the State Bank of Laddonia in 1970. But while his family disintegrated, Turley saw his court appeals and parole applications fail again and again.

Now, as Turley finally is being paroled, the House Assassinations Committee has found new evidence strongly suggesting that he is innocent.

In a July 19 letter to Gov. Joseph P. Teasdale, the committee said that two men "have attested to the fact that they were actually the two individuals who entered and robbed the Laddonia bank."

Turley had not been involved, the two men said in statements obtained by the

committee, which was investigating the robbery because John Larry Ray was a suspect. Ray is the brother of James Earl Ray, the convicted assassin of the Rev. Dr. Martin Luther King Jr.

One of the men, Clarence Haynes, told committee investigators that because of a grudge, he lied when testifying against Turley in a trial eight years ago. Haynes, who is in prison for another crime, said his accomplice was James Rogers. Rogers, in jail for another bank robbery, confirmed that he and not Turley was the robber.

Turley, who is in the Magdala halfway house here awaiting parole later this month, says he should be pardoned, not paroled.

The American Civil Liberties Union says he deserves a pardon and is critical of Teasdale for not acting more promptly in considering the case. Executive Director Joyce Armstrong of the ACLU says she also wonders why Turley was kept in the state penitentiary for two months after state officials got the committee's letter saying Turley was innocent.

A Teasdale spokesman said a governor's aide has investigated the case. But consideration of a pardon must await a formal application, he said. Turley's attorney still is filling out the extensive paper work.

Turley's case has some bizarre twists. A jury found him innocent of the bank robbery charge in federal court here in 1970. But as he was walking down the courthouse steps with his wife and children, he was told that he was needed in the U.S. marshal's office for one other matter.

There, the Audrain County sheriff arrested Turley for the same robbery. After an almost identical trial in state court, he was found guilty and sentenced to 20 years in prison.

The ACLU argued that that was double jeopardy. But the U.S. Supreme Court said "dual sovereignty" permits

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state and federal authorities to independently prosecute the same man for the same crime in the same way.

After eight years in prison, the world Turley left no longer exists. His wife divorced him, became an alcoholic and remarried. His stepdaughter, who says she depended on his guidance, left home at 14 and became pregnant at 15. His stepson turned to drugs and repeatedly was arrested.

While in prison, Turley contracted rheumatoid arthritis, which weakened his joints and makes manual labor difficult. He also lost about 20 pounds from his already gaunt frame.

But Turley insists he is not bitter. He still loves his ex-wife and wants to remarry her. Also, friends have offered free cars, jobs and other aid. However, Turley's letters from prison are filled with frustration. "If crying would help, I could fill my room," he wrote to Mrs. Armstrong.

Early in his prison term, Turley escaped. "He was just frustrated that he had been found innocent and then had been jailed," his attorney, Richard D. Baron, said. "He said he had an opportunity to escape and make a life for himself. The waiting and the lack of quick action on his court appeals had him frustrated."

The evidence against Turley seemed impressive. Four employees of the bank positively identified him, even though the robbers had women's stockings over their faces, distorting their features.

In addition, two Laddonia residents said they saw Turley in Laddonia, in Audrain County in central Missouri, the day before the \$13,000 holdup.

But Turley's attorney in the state case, Latney Barnes of Mexico, Mo., brought out at the trial that six persons who later made identifications were uncertain about identifying a picture of Turley right after the incident.

The witnesses were shown eight photographs and asked if the robbers were among them. Three of the witnesses did

not pick out Turley's picture. The other three said the photo of Turley was "similar" to one of the robbers.

"What I think happened is that they kept seeing Turley's picture and kept seeing him at these trials until they really thought they could remember him: there in the bank," Barnes said in an interview.

Several of the witnesses, when told of the Assassinations Committee letter, stuck by their testimony.

Thomas I. Osborne, the former Audrain County prosecutor who tried Turley, also said he still was unconvinced of Turley's innocence. He questioned the credibility of Haynes, who now says he lied at Turley's trial.

Osborne said he prosecuted Turley after his acquittal in federal court because the county sheriff then, Harold Sulgrove, and the FBI agent on the case, William Duncan, were convinced of Turley's guilt. Osborne believes that Turley won acquittal in the first trial because Haynes' testimony hurt the prosecution. Haynes said there were three men involved in the crime, but bank employees said there were two.

Haynes originally was supposed be tried with Turley in federal court. But shortly after the trial began, Haynes changed his plea to guilty and testified against Turley. Haynes did not testify in the state case.

Turley's innocence was challenged on another point by one knowledgeable investigator who asked not to be named. Haynes may have lied to the committee in saying he never had been involved with Turley in a bank robbery, the investigator said. Prior to the Laddonia robbery, Turley, Ray, and Haynes were suspected of robbing two Illinois banks, he said. But an Assassinations Committee source said other evidence had ruled Turley out of those bank robberies.

Osborne said what hurt Turley most at the state trial was testimony by a St. Louis police detective, which undermined the credibility of Turley's wife, Pauline, a key defense witness. The detective said he overheard Turley's wife say after the first trial that "she had lied the last time she had testified for her husband, and that the next time that she wasn't going to lie for him any more."

Turley's defense was based on testimony by his wife and others that he was

in St. Louis on the day of the robbery working on his car with his stepson. He even presented a receipt from an auto parts company dated June 11, the day of the robbery.

During his prison term Turley frequently wrote to Mrs. Armstrong at the ACLU.

"For 19 years I have really worked hard and never stole anything," he wrote in 1975. (Turley served prison sentences in the 1940s and 1950s for larceny and robbery, but had a clean record after that.)

"Then I get in all this trouble and haven't did nothing. My mother was a Christian lady and I'll swear on her grave I am innocent of this charge. This is enough to drive a man nuts. I don't think a lot of people could take as much as I have."

A few days later, he wrote: "I suppose I talk too much. I guess it's because I haven't had a real visit in such a long time. No one comes up to see me. It really seems that 50 percent of the (prison) population is animals."

Three months later, he wrote: "This is really killing me. I just can't stand much more. I just can't stand another year here."

In 1976, he joined a church in Moberly.

"It was about time I did something good in my life," he wrote. "It has been a miserable wreck up until now and really still is because I'm in here. I'm still praying you will be able to do something for me on that pardon. For the latest news from here it's hell, a stab-

bing or killing every week. Had one yesterday got hurt and three today. It's so overcrowded."

Those who knew Turley while he was in prison said he showed no bitterness, but never stopped trying to convince others, including penitentiary warden Donald Wyrick, that he was innocent. "It seemed like it was very important to him that I believe him," said Wyrick, who knew him well.

Turley's stepdaughter, Deana Aguilar, described in an interview the devastating impact Turley's confinement had on his family.

"Ernie had raised us since we were little. We loved him more than our real father," said Mrs. Aguilar, now 21 and living in Houston. "My mother always drank a little. But after he was put in jail, she stayed drunk all the time. She just gave up."

"We didn't have school clothes any more. I left home at 14 and was pregnant at 15 and again at 16. I missed school. My brother, who was a year younger, ran away from home and started sniffing (drugs). He started getting arrested. We only made it through because he and I stuck together."

Turley's release from prison was delayed by another irony, says one of his attorneys, Charles Werner. At one point it was held up several days only because all the halfway houses in this area were full. John Larry Ray, whose suspected involvement in the robbery led the Assassinations Committee to the new evidence in Turley's case, had taken the last halfway house place.